



H.R. 65 - Lumbee Recognition Act

Floor Situation

H.R. 65 is being considered on the floor pursuant to a closed rule. The rule:

- Provides 1 hour of debate equally divided and controlled by the Chairman and Ranking Member of the Committee on Natural Resources.
- Waives all points of order against its consideration except for those arising under clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides one motion to recommit with or without instructions.
- The Chair may postpone consideration of the bill to a time designated by the speaker.

This legislation was introduced by Representative Mike McIntyre (D-NC) on January 4, 2007. The bill was ordered to be reported as amended from the Committee on Natural Resources, by a recorded vote of 24-7, on April 25, 2007.

H.R. 65 is expected to be considered on the floor on June 7, 2007.

Executive Summary

H.R. 65 provides for Federal recognition of the Lumbee Tribe of North Carolina ("Lumbee Tribe"), and will provide all the Federal programs to the Lumbee Tribe that all other recognized tribes receive.

Summary

H.R. 65 extends Federal recognition to the Lumbee Tribe and requires that all laws and regulations of the United States of general application to Indians and Indian tribes now apply to the Lumbee Tribe and its members.

**Note: Any group of Indians in Robeson, North Carolina, and adjoining counties whose members are not enrolled in the Lumbee Tribe, may petition for acknowledgement pursuant to this Act.*

The Act allows the Lumbee Tribe to be eligible for all services and benefits provided to Indians because of their status as members of a federally recognized tribe. This bill requires that members of the Lumbee Tribe reside on lands within Robeson, Cumberland, Hoke, and Scotland counties in North Carolina to receive Federal services.

The Secretary of the Interior and the Secretary of Health and Human Services must develop, in consultation with the Lumbee Tribe, a determination of needs and budget to provide the services for which Lumbee Tribe members are eligible. This is contingent upon the completion of a tribal roll that is verified by the Secretary of the Interior within 2 years of the enactment of this Act. Both Secretaries are required to submit to Congress a written report of the Lumbee Tribe's needs and budget after the tribal roll is verified.

**Note: Tribal roll is defined as a "list of people recognized by a tribe as members of that tribe."*

The tribal roll will define the service population of the Lumbee Tribe for the purpose of the delivery of Federal services.

The lands in Robeson County that the Lumbee Tribe wants to be held by the Secretary of the Interior will be considered as "on-reservation" trust acquisitions under part 151 of title 25 of the Code of Federal Regulations.

H.R. 65 prohibits the Lumbee Tribe from conducting gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulation Act (25 U.S.C. 2701 et seq.).

**Note: During the Committee markup, Rep. John Duncan (R-TN) offered this prohibition as an amendment and the Committee agreed to it by a voice vote.*

The State of North Carolina is responsible for exercising jurisdiction over all criminal offenses that are committed on and all civil actions that arise, on lands located within the State of North Carolina that are owned by, or held in trust by the United States for, the Lumbee Tribe of North Carolina, or any dependent Indian community of the Lumbee Tribe of North Carolina.

This legislation authorizes such appropriations as are necessary to carry out this Act.

Background

The members of the Lumbee Tribe in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw, and the Tribe has remained a distinct Indian community since the time of contact with settlers. Since 1885 the State of North Carolina has recognized the Lumbee Tribe as an Indian tribe. There are currently 53,000 Lumbee Indians enrolled in the Lumbee Tribe.

The Lumbee Tribe first attempted to gain Federal recognition in 1888 when it submitted a petition to Congress. This petition was denied in 1890 and numerous attempts have been made for recognition since then.

Much of the debate concerning Lumbee recognition stems from an ambiguous law known as the Act of June 7, 1956 (70 Stat. 254). The 1956 Act designates certain Indians as “Lumbee Indians of North Carolina” and declares that they shall enjoy all rights as citizens of the State of North Carolina and the United States. At the same time, the Act makes them ineligible for services available to recognized tribes and makes Indian statutes inapplicable to them.

According to the Interior Department, the 1956 Act effectively denies the Lumbee from eligibility to petition for recognition under the Federal Acknowledgment Process under 25 CFR Part 83. This process, administered by the Department, was developed in 1978 to deal with the growing number of Indian groups seeking federal recognition. The Federal Acknowledgment Process requires a petitioner to meet seven mandatory criteria to establish a continuous existence as an autonomous tribe throughout history to the present. For a number of reasons, undertaking this process takes an extremely long time and requires a petitioner to meet a high threshold of evidence. Since 1978, 16 tribes have been recognized and 24 tribes denied through the Federal Acknowledgment Process. Regardless, Congress retains the final say (within reason) on recognizing Indians for any purpose.”

On December 17, 1987, the Lumbee Tribe submitted to the Department of the Interior (DOI) a petition for Federal acknowledgement which consisted of a two volume report, one and a half file boxes of documentary evidence, and a 16 volume tribal roll. However, the DOI informed the Lumbee Tribe that it was ineligible to participate in the Federal Acknowledgement Process due to the fact that Congress had terminated its relationship with the Tribe and only Congress could restore the relationship.

CBO Estimate

“CBO estimates that implementing this legislation would cost the federal government \$80 million in fiscal year 2008 and about \$480 million over the 2008-2012 period, assuming the appropriation of the necessary funds. Enacting H.R. 65 would have no effect on direct spending or revenues.” [Congressional Budget Office Cost Estimate](#)

Staff Contact

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